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19 IN RE: HIGH-TECH EMPLOYEE
ANTITRUST LITIGATION

Master Docket No. 11-CV-2509-LHK

JOINT DISCOVERY STATUS REPORT

THIS DOCUMENT RELATES TO:

ALL ACTIONS

Pursuant to the Court's January 17, 2013 Case Management Order ("Order") (Dkt. 282),
the parties submit this joint discovery status report.

26 || I. Adobe

27 The parties scheduled the depositions of Debbie Streeter for March 11, 2013, and of Bruce
28 Chizen for March 15, 2013. Adobe agreed to treat all witnesses on its initial disclosure list as

1 document custodians and agreed to provide deposition dates for Shantanu Narayen, Digby
 2 Horner, Rosemary Arriada-Keiper, and Jerry Sastri. Adobe provided dates for Mr. Sastri, Ms.
 3 Arriada-Keiper, Mr. Narayen, and Mr. Horner. The parties have agreed to the following dates:
 4 Mr. Sastri on March 6, 2013; and Ms. Arriada-Keiper on March 26, 2013. On January 30, 2013,
 5 Plaintiffs asked Adobe to provide a deposition date for Natalie Kessler. Adobe will provide a
 6 date for the deposition by February 8, 2013. Adobe informed Plaintiffs that it will add John
 7 Warnock to its initial disclosure list. Adobe has begun collecting his documents and will identify
 8 a date for his deposition.

9 **II. Apple**

10 Apple provided deposition dates for eight of the nine witnesses identified in Apple's Rule
 11 26(a) disclosures on January 25, 2013. Apple was unable to locate the ninth witness in its Rule
 12 26(a) disclosures, former employee Ann Reeves, to arrange dates for her deposition, but has
 13 forwarded her last known address and telephone number. The parties have agreed to the
 14 following dates: Patrick Burke on February 26, 2013; Ron Okamoto on February 27, 2013;
 15 Darrin Baja on March 1, 2013; David Alvarez on March 5, 2013; Rich Bechtel on March 7, 2013;
 16 Denise McCarney on March 12, 2013; and Tim Cook on March 21, 2013. Additionally, plaintiffs
 17 have asked to depose former Apple employee Tony Fadell, and Apple is working to provide a
 18 deposition date.

19 **III. Google**

20 The deposition of Shona Brown took place, as scheduled, on January 30, 2013.

21 On February 1, 2013, Google substantially completed production of responsive documents
 22 from the custodial files of Karine Karpati, Patrick Flynn and Carson Page. Google informed
 23 Plaintiffs that it discovered an error in the processing of documents from these custodians' files
 24 and will therefore be making a small additional production from these files in coming days.

25 To follow up on their December 17, 2012 letter, in which Plaintiffs notified all Defendants
 26 that Plaintiffs would seek the deposition of all Rule 26(a) witnesses and asked Defendants to
 27 provide deposition dates in February and March, 2013, Plaintiffs sent Google a letter on January
 28 25, 2013 requesting dates for the following Rule 26(a) witnesses who were not already scheduled

1 for deposition: Seth Williams, Judy Gilbert, Frank Wagner, and Alan Eustace. On January 31,
 2 Google offered deposition dates for Frank Wagner (March 7) and Judy Gilbert (March 19).
 3 Plaintiffs confirmed the March 7 date for Frank Wagner but stated that they were unavailable to
 4 depose Judy Gilbert on March 19. Google will consult Ms. Gilbert and propose another date.
 5 Google has further informed Plaintiffs that it intends to withdraw Seth Williams as a Rule 26
 6 witness. Google is also consulting with Mr. Eustace for his availability for a deposition.

7 In their January 25 letter, Plaintiffs also requested deposition dates for six more
 8 individuals (namely, Larry Page, Sergey Brin, Patrick Flynn, Karine Karpati, Carson Page, and
 9 Jonathan Rosenberg). On February 1, 2013, Google informed Plaintiffs that Ms. Karpati lives
 10 and works in Israel and is unavailable for a deposition. Google is conferring with Mr. Flynn and
 11 Carson Page to identify dates when they are available for deposition, and has proposed that the
 12 parties meet and confer to discuss Plaintiffs need for and length of the depositions. Google is
 13 seeking dates for Mr. Rosenberg as well.

14 Google has reached out to Larry Page and Sergey Brin for available dates for their
 15 depositions and expect to propose dates to Plaintiffs shortly. Plaintiffs believe that discovery has
 16 already revealed an adequate basis to take their depositions. Google retains the right to object.

17 On January 23, 2013, Google provided an additional privilege log with 3,700 entries. The
 18 log describes communications involving Eric Schmidt, Larry Page, Sergey Brin, and Bill
 19 Campbell (at his intuit.com email address), among other document custodians and potential fact
 20 witnesses.

21 **IV. Intel**

22 The deposition of Paul Otellini took place, as scheduled, on January 29, 2013.

23 Intel provided deposition dates for three of its six witnesses: Tina Evangelista, Danny
 24 McKell, and Ranna Prajapati. Plaintiffs have accepted two of those dates. Intel has not yet
 25 provided dates for previously-requested witnesses Diane Bryant, Christina Dickenson, and Gary
 26 Palangian. Intel has informed plaintiffs that it will be removing those individuals from its Rule
 27 26(a) witness disclosures. Plaintiffs are considering whether they still wish to proceed with them
 28 and will get back to Intel shortly. Intel agreed to produce the documents of Rule 26(a) witness

1 and employee declarant Danny McKell, in advance of his March 8 deposition. On January 30,
 2 2013, Plaintiffs requested deposition dates for two additional witnesses, Renee James and Patrick
 3 Gelsinger. Intel is working to provide dates.

4 **V. Intuit**

5 Intuit provided deposition dates for all of its Rule 26(a) witnesses. However, with respect
 6 to Scott Cook and Brad Smith—the Chairman of the Executive Committee and CEO,
 7 respectively—Intuit has requested that the depositions be limited to four hours of testimony as the
 8 Court limited the deposition of Tim Cook of Apple. Plaintiffs have not agreed to limit these two
 9 depositions. Mr. Cook agreed with at least one senior executive of a competing employer to
 10 eliminate competitive recruiting, and Mr. Smith was Intuit's President and CEO during the
 11 conspiracy. In addition, both individuals worked closely with Bill Campbell (Intuit Chairman,
 12 Apple Director, and Google "Senior Advisor"), a central figure in the conspiracy. Intuit believes
 13 four hours is a reasonable amount of time to question Mr. Cook and Mr. Smith about the
 14 foregoing topics. Intuit will provide dates for Mr. Cook and Mr. Smith that would allow for up to
 15 7 hours of testimony, reserving all rights.

16 **VI. Lucasfilm**

17 Lucasfilm complied with the Court's Order by providing a deposition date for George
 18 Lucas on January 24, 2013, and his deposition is scheduled to take place on March 28, 2013.
 19 Lucasfilm also provided deposition dates for all of its Rule 26(a) witnesses who have not already
 20 been deposed: Jan Van der Voort, Lori Beck, Lynwen Brennan, Steve Condiotti, Steve Dykes,
 21 Micheline Chau, and Michelle Maupin.

22 Plaintiffs requested deposition dates for two former Lucasfilm employees: Gail Currey
 23 and Amir Dramen. Lucasfilm has provided Plaintiffs with a date for Mr. Dramen, and has
 24 informed plaintiffs that it has contacted Ms. Currey's current employers and is in the process of
 25 finding a workable date.

26 **VII. Pixar**

27 The deposition of Ed Catmull took place, as scheduled, on January 24, 2013.

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1 Pixar provided dates for its Rule 26(a) witnesses who were not already scheduled for
 2 deposition: John Kirkman, Stephanie Sheehy, and Dana Batali. Pixar agreed to add John
 3 Kirkman as a document custodian on December 21, 2012, and expects to produce his documents
 4 by February 28, 2013, in advance of Mr. Kirkman's deposition on March 22, 2013.

5 **VIII. Depositions Potentially Affected By Pending Privilege Log Dispute**

6 On January 16, 2013, Plaintiffs moved to compel responsive documents Google
 7 communicated with Intuit Chairman and Apple Director Bill Campbell, at his intuit.com email
 8 address. (Dkt. 278.) Plaintiffs concurrently moved to shorten time on the motion to compel, in
 9 order to not further disrupt or delay depositions of witnesses whose documents are at issue. (Dkt.
 10 280.) At the January 17, 2013 Case Management Conference, Google agreed to file their
 11 opposition to Plaintiffs' motion to compel by January 25, 2013, and Plaintiffs agreed to not file a
 12 reply. (Dkt. 315.)

13 On January 23, 2013, Magistrate Judge Grewal accepted the briefing limitations to which
 14 Plaintiffs and Google agreed, but denied Plaintiffs' motion to shorten time to the extent Plaintiffs
 15 sought to have the hearing on the motion to compel before February 26, 2013. (Dkt. 315.)
 16 Plaintiffs informed Google and Intuit that Plaintiffs intend to go forward with the depositions as
 17 scheduled and confirmed in the Court's Order (Dkt. 282), and that they reserve the right to
 18 question the witnesses further in the event the Court orders production of the documents at issue
 19 requiring the testimony of these witnesses. Google reserved its right to object to further
 20 questioning. Intuit objected to keeping Mr. Campbell's deposition open for further questioning
 21 and has offered to move the deposition to March 2013 after Judge Grewal's decision.

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1 Respectfully submitted,

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25 **ATTESTATION:** Pursuant to General Order 45, Part X-B, the filer attests that concurrence in
26 the filing of this document has been obtained from all signatories.